

DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

ORIGINAL

RECEIVED

MAY 26 1998

In the Matter of

Questions Related to Assessment  
of Presubscribed Interexchange  
Carrier Charges on Public Payphone Lines

)  
)  
)  
)  
)  
)

96-262

Federal Communications Commission  
Office of Secretary

CCB/CPD 98-34

MCI COMMENTS

MCI Telecommunications Corporation (MCI) hereby submits its comments on the questions raised by the Common Carrier Bureau (Bureau) in its May 4, 1998 Public Notice.<sup>1</sup> Operator service providers (OSPs) and location providers have informed the Bureau that the price cap LECs are generally assessing the multiline business PICC for "smart," privately-owned payphones on the presubscribed 1+ carrier, while they are assessing the PICC for LEC-owned public payphones on the presubscribed 0+ carrier. The Bureau notes that the Commission's rules do not clearly state which presubscribed interexchange carrier (PIC) -- the 0+ or 1+ carrier -- may be charged the PICC in the case of public payphones, and seeks comment on several specific questions regarding the assessment of the PICC on public payphone lines.<sup>2</sup>

---

<sup>1</sup>Public Notice, DA 98-345, May 4, 1998.

<sup>2</sup>Public Notice at 1.

No. of Copies rec'd  
List A B C D E

024

Question 1: We seek comment on all issues raised in the following letters to Common Carrier Bureau representatives: (a) Letter from John H. Goida, President, Teleconcepts Inc. to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission, April 17, 1998; (b) Letter from Larry Kay, National Operator Services, to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission, April 22, 1998; (c) Letter from Stephen H. Loberbaum, General Counsel, ONCOR Operator Communications, Inc. to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission, April 22, 1998; (d) Letter from William M. Waldron, Boston Telecommunications Company, to Jane Jackson, Chief, Competitive Pricing Division, Common Carrier Bureau, Federal Communications Commission, April 22, 1998.

Two of the letters received by the Bureau are from OSPs stating that the price cap LECs are assessing a multiline business PICC for lines associated with LEC payphones, and are assessing this PICC on the 0+ carrier. The other two letters are from management companies that represent location providers who receive 0+ commissions from OSPs. The management companies state that their OSPs are being billed the multiline business PICC by the LEC and are withholding the PICC from commission payments.

These parties argue that the price cap LECs should not be permitted to assess a PICC for payphone lines or should be required to assess the PICC on the 1+ carrier. They also argue that the PICC that is assessed should depend on the number of payphone lines at a location. ONCOR, for example, contends that service stations, restaurants, and other locations are “most appropriately described as single line businesses and therefore subject to the single line business PICC rate of \$0.53 per month.”<sup>3</sup>

---

<sup>3</sup>Letter from Stephen H. Loberbaum, General Counsel, ONCOR Operator Communications, Inc., to A. Richard Metzger, Jr., Chief, Common Carrier Bureau,

As discussed below, MCI agrees that the Commission's rules do not provide for the assessment of a PICC on public payphone lines. The Commission should amend its rules to permit the assessment of a PICC on public payphone lines, with the PICC imputed to the LEC's payphone unit. This is the only approach that permits the PICC associated with a public payphone line to be recovered in a cost-causative manner.

2) Does the Commission's existing rule governing collection of the PICC, 47 C.F.R. §69.153, permit price cap LECs to impose PICC charges for LEC public payphone lines and, if not, whether the rule should be amended to provide explicitly for assessment of PICCs on public payphone lines?

Pursuant to Section 69.153(a) of the Commission's rules, the PICC "may be assessed on the subscriber's presubscribed interexchange carrier."<sup>4</sup> The term "subscriber" is not defined in Section 69.2 of the Commission's rules, nor used elsewhere in Part 69. But if Section 69.153(a) is read in conjunction with Section 69.153(b), it is apparent that a "subscriber" is an "end user": Section 69.153(b) provides that "[i]f an end user customer does not have a presubscribed interexchange carrier, the local exchange carrier may collect the PICC directly from the end user."<sup>5</sup> That a "subscriber" must be an "end user" is confirmed by the Commission's statements throughout the Access Reform Order and Second Reconsideration Order, which describe

---

Federal Communications Commission, April 22, 1998.

<sup>4</sup>47 C.F.R. § 69.153(a).

<sup>5</sup>Id. at § 69.153(b).

the PICC as a “per-line charge assessed on the end user’s presubscribed carrier.”<sup>6</sup> Thus, Section 69.153 provides that the PICC may be assessed on an end user’s presubscribed interexchange carrier or, if an end user does not have a presubscribed interexchange carrier, on the end user itself.

Because Section 69.153 permits the assessment of the PICC only on an end user’s presubscribed carrier or on an end user, the LECs may not assess a PICC for public payphone lines. Pursuant to Section 69.2(m), an “end user” is “any customer of an interstate or foreign telecommunications service that is not a carrier . . .”<sup>7</sup> The Commission has consistently stated that LEC payphone service providers (PSPs) are not included within this definition.<sup>8</sup> Because a LEC PSP is not an “end user,” Section 69.153 does not permit the price cap LECs to assess a PICC for public payphone lines.

This conclusion is confirmed by the fact that there is no specific provision in Section 69.153 that governs the assessment of PICCs on public payphone lines. There are subsections of Section 69.153 that govern the assessment of the PICC on residential and single line business lines, non-primary residential lines, multiline business lines, and Centrex lines.<sup>9</sup> A public payphone line does not, under the Commission’s rules, fall into

---

<sup>6</sup>In the Matter of Access Charge Reform, First Report and Order, CC Docket No. 96-262, rel. May 16, 1997 (Access Reform Order) at ¶91.

<sup>7</sup>47 C.F.R. § 69.2(m).

<sup>8</sup>In the Matter of C.F. Communications Corp., et al. v. Michigan Bell Telephone Co. et al., Memorandum Opinion and Order, 12 FCC Rcd 2134, 2142 ¶16 (LECs are “telephone companies,” not “end users”).

<sup>9</sup>47 C.F.R. §§ 69.153 (c) - (g).

any of these categories. That a public payphone line is not considered to be a multiline business line is demonstrated by the fact that the application of the SLC to public payphone lines is not governed by Section 69.152(b),<sup>10</sup> which governs the application of the SLC to multiline business lines, but by a separate subsection (c) that governs the assessment of the SLC on “subscriber lines associated with a public telephone.”<sup>11</sup> The fact that there is no equivalent subsection in Section 69.153 confirms that the Commission’s rules do not provide for the assessment of a PICC for public payphone lines.

By contrast, the Commission’s rules permit assessment of a PICC for lines associated with semi-public payphones and with independent payphone provider (IPP) payphones. The Commission has consistently interpreted the definition of “end user” as including semi-public payphones and IPP payphones.<sup>12</sup>

The Commission should amend its rules to provide that price cap LECs may assess a PICC for lines associated with public telephones. While the loop costs associated with public payphone lines are, in almost all cases, fully recovered through the SLC, the Commission has found that certain types of lines must provide a subsidy to

---

<sup>10</sup>47 C.F.R. § 69.152(b).

<sup>11</sup>Id. at (c).

<sup>12</sup>See In the Matter of C.F. Communications Corporation v. Century Telephone of Wisconsin et al., Memorandum Opinion and Order, 10 FCC Rcd 9775 (1995); In the Matter of C.F. Communications Corp., et al. v. Michigan Bell Telephone Co. et al., Memorandum Opinion and Order, 12 FCC Rcd 2134 (1997).

residential users during a transition period.<sup>13</sup> Exempting public payphone lines from assessment of the PICC while assessing a PICC on IPP lines would be contrary to the competitive neutrality principles of the Payphone Order,<sup>14</sup> and would require revenues that would be otherwise collected through the payphone PICC to be recovered through higher PICC rates paid by multiline business customers.

As discussed below, however, a PICC should be assessed on public payphone lines only if it is imputed to the LEC payphone unit. Interexchange carriers would not be able to recover the PICC associated with a public payphone line in a cost-causative manner.

3) Assuming that price cap LECs are permitted to assess PICC charges on public payphone lines, should the PICC be: (a) charged to the presubscribed 1+ carrier; (b) charged to the presubscribed 0+ carrier; (c) imputed to the LEC's payphone unit as an end user; (d) split evenly between the 1+ and 0+ PIC; or (e) prorated among all IXCs that carry calls originating from a particular payphone each month? Commenters may also propose other alternative methods for allocating the public payphone PICC.

Throughout the Access Reform Order and Second Reconsideration Order, the Commission emphasizes that interexchange carriers must be permitted to recover the PICC in a cost-causative manner.<sup>15</sup> In order for an IXC to recover the PICC in a cost-

---

<sup>13</sup>Access Reform Order at ¶101 (“We also acknowledge that our plan will require customers with multiple telephone lines to contribute, for a limited period, to the recovery of common line costs that incumbent LECs incur to serve single-line customers.”)

<sup>14</sup>In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-128, rel. September 20, 1996 (Payphone Order).

<sup>15</sup>In the Matter of Access Charge Reform, Second Order on Reconsideration and Memorandum Opinion and Order, CC Docket No. 96-262, rel. October 9, 1997, at ¶16

causative manner, the IXC must have a customer-carrier relationship with the entity that selects it as the presubscribed carrier.<sup>16</sup> With an IPP payphone, for example, the IPP selects the 1+ presubscribed carrier and also has a customer-carrier relationship with that carrier. The IXC can then construct a rate structure for 1+ service that allows it to recover the PICC costs from the cost-causer -- the private payphone owner.

By contrast, if the PICC were assessed on an IXC presubscribed to a public payphone line, as under the Bureau's options (a), (b), or (d), the IXC would be unable to recover the PICC in a cost-causative manner. IXCs do not normally have a customer-carrier relationship with the entity that selects the presubscribed carrier at a LEC payphone. In the case of all BOC payphones, and many GTE and Sprint payphones,<sup>17</sup> the 0+ and 1+ PICs are selected by the location provider, which is not a customer of the IXC. Consequently, in the case of most LEC payphones, the IXC would not be able to construct a rate structure that permits it to recover the PICC from the cost causer.

If the PICC were assessed on the 0+ or 1+ carrier presubscribed to a LEC payphone, the IXC would have to recover its PICC costs in a non-cost causative manner from transient callers, either through higher general rates or by assessing a special payphone surcharge. These higher rates would create incentives for transient callers to

---

("One of the primary goals of the First Report and Order was to develop a cost-recovery mechanism that permits carriers to recover their costs in a manner that reflects the way in which those costs were incurred.")

<sup>16</sup>See Access Reform Order at ¶93 ("There is customer contact value in being a customer's presubscribed interexchange carrier").

<sup>17</sup>Comments of Sprint Corporation, CC Docket No. 96-128, July 1, 1996, at 7.

use access codes to reach a carrier whose rates did not reflect the PICC. The presubscribed carrier would then be forced to recover the PICC over a smaller and smaller base of customers. In fact, the presubscribed carrier may be unable to recover the PICC at all.

Forcing IXCs to attempt to recover the PICC from transient callers would not only be contrary to the Access Reform Order's requirement that IXCs be given the opportunity to recover the PICC in a cost-causative manner, but it would also be contrary to the Access Reform Order's requirement that assessment of the PICC not provide an artificial incentive for end users to use dial-around carriers.<sup>18</sup> Dial-around is already common at LEC payphones; indeed, the Commission has devoted considerable effort to making it possible for payphone users to reach the IXC of their choice, especially for 0+ calls.<sup>19</sup> Assessing the PICC on the presubscribed carrier would create an artificial incentive for end users to use a non-presubscribed carrier. There is no feasible way to eliminate this incentive by assessing some portion of the PICC directly on those callers that use a dial-around carrier.<sup>20</sup>

---

<sup>18</sup>Access Reform Order at ¶93.

<sup>19</sup>In the Matter of Policies and Rules Concerning Operator Services Access and Pay Telephone Compensation, 6 FCC Rcd 4736 (1991); See also In the Matter of Billed Party Preference for InterLATA 0+ Calls, Second Report and Order and Order on Reconsideration, CC Docket No. 92-77, rel. January 29, 1998.

<sup>20</sup>This is in contrast to the situation at non-payphone lines, where the artificial incentive to use dial-around carriers can be limited by assessing the PICC directly on the end user.



Because IXCs would not be able to recover the PICC associated with LEC payphones in a cost-causative manner, the Commission should adopt option (c) and require the price cap LECs to impute the payphone PICC to the LEC payphone unit. This is the only option that would permit the PICC to be recovered in a cost-causative manner. Accordingly, the Commission should amend Section 69.153 to provide that price cap LECs may assess a PICC on “providers of public telephones.”<sup>21</sup>

4) Should all public payphones be charged the multiline business PICC, or should some public payphones, such as those that constitute the only telephone line at a given location, be charged the single-line business PICC?

All public payphones should be assessed the multiline business PICC. Pursuant to Section 69.152(c) of the Commission’s rules,<sup>22</sup> all LEC payphones are assessed the multiline business SLC. There is no reason to classify public payphones differently for the purpose of assessing the PICC than for the purpose of assessing the SLC.

5) Do policy reasons, practical considerations, or other factors suggest that price cap LECs should be permitted to assess PICCs on the LEC’s public payphone lines that are different in amount, or collected from a different party, from those assessed on privately-owned payphones?

As discussed above, the only cost-causative approach for assessing a PICC on public payphone lines is to impute the PICC to the LEC payphone unit. Because the Payphone Order requires that all PSPs be placed on an equal footing, the Commission’s

---

<sup>21</sup>See 47 C.F.R. §69.152(a) (providing for the assessment of the SLC on “providers of public telephones”).

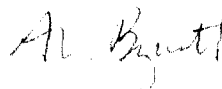
<sup>22</sup>47 C.F.R. § 69.152(c).

rules should provide that the PICC be assessed directly on all PSPs, both LEC PSPs and IPPs.

6) To what degree could imposition of PICC charges on any of the parties listed in Question (3), above, cause reductions in the availability of public payphone services, increases in rates, or reduction in competition for interstate, interLATA traffic originating from public payphones?

Assessing the PICC on the 0+ or 1+ carrier, as under options (a), (b), and (d) in Question 3, above, would have a significant impact on competition in the market for interstate, interLATA traffic originating from public payphones. This approach would distort the market by creating artificial incentives for callers to "dial around" the presubscribed carrier.

Respectfully submitted,  
MCI TELECOMMUNICATIONS  
CORPORATION



Alan Buzacott  
Regulatory Analyst  
1801 Pennsylvania Ave., NW  
Washington, DC 20006  
(202) 887-3204

May 26, 1998

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on May 26, 1998.



---

Alan Buzacott  
Regulatory Analyst  
1801 Pennsylvania Ave. NW  
Washington, D.C. 20006  
(202) 887-3204

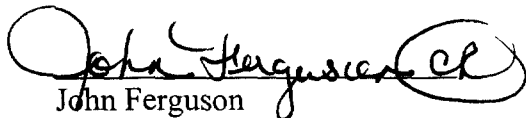
## CERTIFICATE OF SERVICE

I, John E. Ferguson III, do hereby certify that copies of the foregoing Comments were sent via first class mail, postage paid, to the following on this 26th day of May, 1998.

Jane Jackson\*\*  
Chief, Competitive Pricing Division  
Federal Communications Commission  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554

International Transcription Services  
1231 20<sup>th</sup> Street, N.W.,  
Washington, DC 20036

\*\*HAND DELIVERED

  
John Ferguson